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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/775,074	02/01/2001	Gerhard Reichert	1663-I-CIP	8012

7590

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EXAMINER

TRAN A, PHI DIEU N

ART UNIT

PAPER NUMBER

3637

DATE MAILED: 02/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/775,074

Applicant(s)

REICHERT, GERHARD

Examiner

Phi D A

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 25 November 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 23-68 is/are pending in the application.
- 4a) Of the above claim(s) 50-68 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 23-49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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Newly submitted claims 50-68 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

This application contains claims directed to the following patentably distinct species of the claimed invention: figures 3, 10, 17, 18, 22, 22A, 23, 24, 25, 26, 26A, 27A, 27C, 27E, 27F, 27G, and 32. Currently, no claim is generic.

Since applicant has received an action on the merits for the originally presented invention to the specie of figure 32, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 50-68 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

#### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 44-49 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 44 last paragraph (the body one corner notch..." is indefinite. It is unclear what applicant is trying to claim.

#### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 23, 26-31, 33-36, 39, 42 are rejected under 35 U.S.C. 102(b) as being anticipated by Kassl et al (5351459).

Kassl (figures 4-6) shows a muntin grid piece having an inner muntin grid element (38), an outer muntin grid element (22), the outer muntin grid element substantially surrounding the inner muntin grid element to hide the inner muntin grid element from view on both sides of the window when the muntin grid piece is installed, the outer muntin grid element defining a slit (30), the slit in the outer muntin grid element defining opposed ends, the ends being angled (the angle is not yet defined), the outer muntin grid element being in the form of a tube disposed around the inner muntin grid element (38), the outer muntin grid element being connected to the inner muntin grid element with a connector (the circular interior 38 which connects to the inner muntin element, the connector is not yet defined), the outer muntin grid element including at least one protruding foot (28, figure 9) that increases the width of the outer muntin grid element, the outer muntin grid element being collapsible (figure 4 shows a open section 34, the grid thus inherently is collapsible), glass panels forming an insulating chamber.

3. Claims 44-49 are rejected under 35 U.S.C. 102(b) as being anticipated by Baier (5345743).

Baier (figures 5-6) shows an outer muntin grid element used to form a muntin grid piece in a simulated divided lite window, the outer muntin grid element having a body having a width and a longitudinal direction, the body having longitudinal ends that define the width of the body (figure 4), the body having corner notch (32, the corner between the parts 26 and the flat part),

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the body being made of foam having desiccant, flexible and resilient, an adhesive ( 34) connected to the body.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 24, 25, 32, 37, 38, 40, 41, 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kassl et al (4850175) in view of Baier (5345743).

Berdan shows all the claimed limitations except for the outer muntin grid element being a foam material and the foam material including a desiccant.

Baier shows a muntin grid element (22) being a foam material and having desiccant to provide for spacing of the panels with the enhanced effect of preventing rattling and absorbing moisture in between the panes.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Berdan to show the outer muntin grid element being a foam material and the foam material including a desiccant because it would provide for spacing of the panels with the enhanced effect of preventing rattling and absorbing moisture in between the panes as taught by Baier.

Per claims 32, 43, Kassl et al as modified by Baier shows the muntin grid being flexible and resilient.

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***Response to Arguments***

6. Applicant's arguments with respect to claims 23-30 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different muntin grid structures.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 703-306-9136. The examiner can normally be reached on Monday-Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Phi Dieu Tran A  
February 10, 2003

PA

LANNA MAI  
SUPERVISORY PATENT EXAMINER  
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